

**Town of Kinderhook
Planning Board Meeting
3211 Church Street
Valatie, NY 12184
February 20, 2014**

Approved

Minutes

The Meeting of the Town of Kinderhook Planning Board was held on Thursday, February 20, 2014, beginning at 7:03pm at the Kinderhook Town Hall, 3211 Church Street, Valatie, NY. The meeting was called to order by the Chairwoman, Mary Keegan-Cavagnaro. The Roll was taken by the Secretary.

A. Roll Call

Present:

Mary Keegan-Cavagnaro, Chairwoman
Andy Howard, Town Attorney
Peter Haemmerlein
Chris Simonsen
Jake Samascott
William Butcher
Dale Berlin
Daniel Weiller
Jason Graham
Nataly Dee, Secretary

Excused:

Guy Rivenburgh
Patrick Prendergast, Engineer

Absent:

None

Also in attendance were Tim O'Brien, Peter VanAlstyne, Robert Boll, Marcel St. Onge, Steve Bolger, Ronald Wills, Samuel Better.

B. Correspondence

1. Review of Minutes:

January 9, 2013 – Workshop
January 16, 2013 – Meeting

A motion to accept the minutes was made by Mr. Simonsen. Motion seconded by Mr. Haemmerlein. All in favor. Motion carried; minutes approved.

C. Public Hearings

None

D. Old Business

1. Henry Kazer: Major Subdivision - County Route 28, Valatie

Mr. VanAlstyne reported that he has met with Mr. Kazer. The project is moving along and will resubmit soon.

2. Dollar General: Site Plan Review – US Route 9, Valatie

**Town of Kinderhook
Planning Board Meeting
3211 Church Street
Valatie, NY 12184
February 20, 2014**

Approved

Mr. O'Brien of Bohler Engineering representing the project addressed the board. He reported that the variances requested for a reduction in the required parking spaces and the use of sliding glass doors at the entrance were approved by the Zoning Board of Appeals. Mr. O'Brien reviewed some of the issues that have previously been discussed: tree survey, drainage and grading, landscaping, location of the propane tank, which was relocated below grade. The engineer is reviewing the septic system. Minor revisions were made to the SWIPP, as per the engineer's comments, and has been resubmitted. The roof pitch and design were changed to meet the code. One issue still outstanding was that of awning or shutters around the windows. Sketches showing both designs were provided for the board's consideration. The developer prefers awnings, but Mr. O'Brien stated that it was at the board's discretion. Another outstanding item was truck access, and ingress and egress to the site. Mr. O'Brien presented the truck access simulation. The matter of signage was pulled from the variance application and is still pending. Discussion with the property owner regarding signs is ongoing. Proposed sign location is shown on the plans. When a final decision is made an application will be submitted to the Building Department. A discussion about the proposed berm at the front of the property ensued. Mr. O'Brien stated that grading on the site is from east to west toward the south. Mr. Simonsen read section 250-33(e) from the code in reference to the landscape buffer. It was asked how tall the planting will be in order to minimize visual prominence and comply with the code. Mr. O'Brien noted that the elevation of road is higher than the elevation of parking lot, with a two foot difference. Planting is estimated at 30"-36". The distance from edge of pavement road to planting would be 10'. Site distance out of the driveway was reviewed.

The matter of truck access pattern and delivery schedule was discussed. It was noted that there will be full access to the self-storage facility when truck is parked and unloading. Mr. O'Brien stated that the trucking company is Werner Trucking.

The matter of shutters versus awnings was discussed. Section 250-33(h)(4) of the code which refers to "traditional" style was discussed. It was noted that there is nothing in the code which prevents awnings. An informal vote was taken on the boards' preference for the design. There were 2 votes for awning and 5 for shutters. The use of shutters was requested by the board.

If the board was so inclined and felt the application was substantially complete, setting a date for a Public Hearing could be entertained. It was suggested that the project be referred to the engineer for a review of code compliance.

A motion to schedule a Public Hearing on Thursday, March 20, 2014, at 7:05pm was made by Mr. Heammerlein. Motion seconded by Mr. Berlin. All in favor. Motion carried; hearing set.

3. Robert Boll, Jr.: Site Plan Amendment – Parker Hall Road, Niverville, NY.

Mr. Peter VanAlstyne addressed the board. Mr. Boll also addressed the board. Plans were distributed and reviewed by the board. There is some issue as to the name of the road: some older maps designate the road as County Route 28, others maps list it as Parker Hall Road. Both roads are maintained by the county. The proximity of the property to the town line of the Town of Chatham was reviewed.

**Town of Kinderhook
Planning Board Meeting
3211 Church Street
Valatie, NY 12184
February 20, 2014**

Approved

Mr. VanAlstyne and Mr. Boll stated that they had met with the builders; Morton Buildings. Elevations were distributed for review. The size of the building has changed since the last meeting. The building is proposed to be 42' x 75'. This alteration was made in an effort to comply with the code in respect of the pitch of the roof. The elevation drawings show a 6 on 12 pitch. Mr. Boll explained that Morton's typical pitch on a building of this size is 4 on 12. Further, he explained that the truss design is vaulted in from the inside. This design would allow the sides of the building to be lowered by 2 feet, from 16' to 14'. Further, Mr. Boll noted that surrounding properties have buildings with 6 on 12 pitches. Additional details of the building, specifically the doors and windows, were reviewed. Mr. Boll stated that would like to construct an attractive and affordable building. Mr. Boll pointed out other Morton Buildings in the area as comparison to his proposal.

The proportions and glazing of the windows were reviewed. The code stipulates 12% of the building area. Proposed lighting was reviewed noting that there is an existing incandescent light. There will be no changes to the utility delivery as there is an existing pole that will be used. Access to the property is from Parker Hall Road.

Mr. Butcher inquired as to whether the applicant would need to be referred to the ZBA for a variance for the proposed roof pitch. Mr. Howard brought the idea of reasonable conditions for waivers in individual circumstances. He noted section 250 (4)(c) of the code which provides for reasonable conditions. Design standards are meant to assist in exercising discretion to ensure that the best building possible for the neighborhood and the town is approved. That discretion can be exercised to one of two ways: sending it to the ZBA, or by deciding that based on the reasons set forth the design is acceptable. There is room for latitude with specifications. As long as this is not precedent setting and it is specific to this situation. Mr. Simonsen brought the board's attention back to "traditional" building designs as outlined in the code. The language in the code is compatible.

Mr. Howard stated that the board has a few options. The board could make a decision to meet again to review the project. Or, the board could make a decision to schedule a Public Hearing with the understanding that the applicant needs to address the issue of the road designation, the percentage of glazing, and review by the engineer. A public Hearing could always been extended if issue arose that needed to be resolved prior to approval. The board could also make the decision to send the applicant to the ZBA. Discussion of the manner in which the board should proceed ensued. Several members felt that it was premature to schedule a Public Hearing at this time. Others felt that the application was substantially complete.

A motion to deem the application to construct an equipment storage building as substantially complete, noting that the proposed building does reflect neighborhood character and the situation is not precedent setting, and to schedule a Public Hearing for Thursday, March 20, 2014, at 7:20pm was made by Ms. Keegan-Cavagnaro. Motion seconded by Mr. Berlin. In favor: 5 (Ms. Keegan-Cavagnaro, Mr. Samascott, Mr. Graham, Mr. Haemmerlein, Mr. Berlin); opposed: 3 (Mr. Simonsen, Mr. Weiller, Mr. Butcher). Motion carried; hearing date scheduled.

A discussion ensued. It was noted that this parcel is the last of the B1 in that area.

**Town of Kinderhook
Planning Board Meeting
3211 Church Street
Valatie, NY 12184
February 20, 2014**

Approved

4. Michael & Pamela Bleau: Minor Subdivision/Lot Line Adjustment (with lands of Deibel & Anderson) – McCagg Road, Valatie

Mr. VanAlstyne addressed the board. Letters of permission to represent from both property owners were submitted. Plans were distributed and reviewed. Mr. VanAlstyne explained that there are no changes to the plans from last month, that .75 acres was being added to the Anderson-Deibel lot from the Bleau lot, and that both lots are currently non-conforming. The location of wells and septic systems were discussed and need to be sited on the plans. Descriptions as they appear on the deeds will be prepared.

A motion to schedule a Public Hearing for Thursday, March 20, 2014, at 7:30pm was made by Mr. Simonsen. Motion seconded by Mr. Weiller. All in favor; none opposed. Motion carried; hearing date scheduled.

E. New Business

1. Chris Gibson for Congress: Site Plan Amendment – Former Toyota of Kinderhook, Route 9H, Kinderhook

Mr. Steve Bolger, representing Congressman Gibson and property owner Ed Habek, addressed the board. He explained that this would be a short term lease running through November. No changes to the interior or exterior are being proposed. It was indicated that the owner would like to put the property on the market for sale later in the year. They will only be using the office portion of the building; there is no use of the garage proposed.

It was noted that the hours of operation would be approximately 8am to 9pm. The number of employees and volunteers on site would be two to start, but could increase to perhaps 10-15 people as Election Day in November approaches.

It was the recommendation of Mr. Howard that the process of Site Plan Review be gone through to create a record of use for the site. When the building sells, the prior use will be clear. It was thought that the last time it was reviewed was approximately 7 years ago prior to Toyota of Kinderhook moving to their current location in Ghent. The board, if so inclined, could grant an approval of the amended site plan with the condition that the Building Department inspect the site and confirm that it is in compliance with the building code. Section 250-50 (10) was cited in reviewing this application noting the minor nature of the changes and term of the use.

The Board discussed waiving the requirement for a Public Hearing.

A motion to forego a Public Hearing based on section 250-50 (10) of the code, and require an inspection of the site by the Building Department to confirm code compliance was made by Mr. Berlin. Motion seconded by Mr. Weiller. All in favor; none opposed. Motion carried; hearing waived; application approved.

Funds in the amount of \$25 dollars were submitted.

2. Ronald Jay Wills: Zoning Amendment – US Route 9 and Cortland Drive

**Town of Kinderhook
Planning Board Meeting
3211 Church Street
Valatie, NY 12184
February 20, 2014**

Approved

Mr. Wills addressed the board. He noted that the building is empty and has not been used in many years. He is aware of the existing limitations and that they are extensive. He would like to be able to transform the space in to a professional office space to lease. The traffic associated with such a proposal would be minimal.

The zoning district was noted as R2. Permitted uses as designated in the code for R2 areas were reviewed. The use requested by applicant is not one of the approved uses as stipulated in the code. The code does provide for the process of making a determination regarding allowable use. The process involves the Planning Board making a recommendation to the Town Board to take under advisement, and if they saw fit, to set a Public Hearing for further consideration of the matter.

Mr. Howard reviewed some of the issues the board should consider: it is not within this board's jurisdiction to re-zone this particular site as it would be considered spot zoning. While moderate growth within the town is encouraged and home occupations are allowed, of concern is the expansion of potential uses throughout that entire district. Are the potential lower level uses that would be allowed in keeping with this town? Are those potential uses compatible with the town's Comprehensive Plan?

The options to applicant as it stands now were reviewed. The owner could raze the building and try to sell the land to a neighbor or make use of the site in one of the permitted uses. It was noted that a Use Variance for this site has previously been denied by the ZBA. The board discussed the potential of modifying the zoning of the Route 9 corridor.

It was noted that the parcel is approximately .5 acres and the building is 30' x 50'. The impact in terms of property values was discussed. The concept of a Small Business Operation (SBO) area and the regulations associated was introduced.

Ms. Keegan-Cavagnaro suggested the board take some time to consider the matter and invited the applicant to attend the meeting next month for further discussion.

F. ZBA Opinions

None

G. Liaisons

1. Village Planning Boards: Nothing new to report.
2. Town Board: Other than the Wills application, nothing of substance to report.
3. Comprehensive Plan Review Committee: Remove this item from agenda as the plan has been approved.
4. NYSEG Project: Comments were indiscernible from the recorded transcript.

H. Other

**Town of Kinderhook
Planning Board Meeting
3211 Church Street
Valatie, NY 12184
February 20, 2014**

Approved

1. Public Comment

It was the opinion of some members that a vote should have been taken as to whether the roof pitch of the Boll application required referral to the ZBA. Sections of the code regarding roof pitches were reviewed further. The code sites what is acceptable, not what is not allowed. The roll of the board is to utilize the tools that the code provides to get the right building; there is flexibility to exercise discretion within reason. Mr. Simonsen was concerned with consistency of board decisions and precedent setting. A discussion of the matter ensued.

A motion to adjourn was made by Mr. Berlin. Motion seconded by Mr. Haemmerlein. All in favor. Motion carried; meeting adjourned.

Respectfully submitted,

Nataly Dee, Secretary